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# Hugo Grotius and the liberal tradition

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AN ABSTRACT OF THE THESIS OF Karen Diane Csajko for the  
Master of Arts in Political Science presented July 28, 1987.

Title: Hugo Grotius and the Liberal Tradition

APPROVED BY MEMBERS OF THE THESIS COMMITTEE:

  
Craig L. Carr, Chairman

  
Gary L. Scott

  
Byron L. Haines

One approach in contemporary international relations theory is the moralist position. Most moralists argue that obligations which an individual has toward the state and toward persons qua fellow citizens should not override the obligations which every individual has toward other persons qua members of humanity. Essential to a moralist approach is the idea that every individual shares some feature, such as rights, which is universal to all men and incontrovertible by any body. Many moralists base their theory upon the thought of Hugo Grotius, equating Grotius's thought with their own moralist approach.

This thesis argues that Grotius does not present a universal ethic and that his thought does not serve as a foundation for contemporary moralist theory. Individualist elements of Grotius's thought which do uphold a universalist ethic should not be viewed in isolation; his natural law argument includes a notion of community as well as individual rights. Grotius accommodates individualism and community in what I call a Grotian "conciliation."

To argue that Grotius's theory is one of conciliation, I analyze his discussions of society and contend that throughout his discussions Grotius identifies man as an individual with obligations to respect the rights of all others as well as a citizen with obligations to the superior rights of the sovereign. I then compare Grotius's thought to that of Immanuel Kant in order to demonstrate that the accommodation found in Grotius is not equivalent to Kant's universalist ethic. To equate his thought to Kant's thought, or to any other universalist ethic, is to attribute concerns to Grotius which are not necessarily addressed in his theory. Not only may this do an injustice to the different concerns by Grotius, but it overlooks the possibility that Grotius's conciliation may offer an alternative to, rather than a substantiation of, the moralist approach in international relations theory.

HUGO GROTIUS AND THE LIBERAL TRADITION

by

KAREN DIANE CSAJKO

A thesis submitted in partial fulfillment of the  
requirements for the degree of


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TO THE OFFICE OF GRADUATE STUDIES AND RESEARCH:

The members of the Committee approve the thesis of  
Karen Diane Csajko presented July 28, 1987.

  
Craig L. Carr, Chairman

  
Gary L. Scott

  
Byron L. Haines

APPROVED:

  
David A. Smeltzer, Head, Department of Political Science

  
Bernard Ross, Dean of Graduate Studies and Research

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## CHAPTER I

### INTRODUCTION: THE GROTIAN CHALLENGE

And I am called wise, for my hearers always imagine that I myself possess the wisdom which I find wanting in others: but the truth is, O men of Athens, that God only is wise; and by his answer he intends to show that the wisdom of men is worth little or nothing; he is not speaking of Socrates, he is only using my name by way of illustration, as if he said, He, O men, is the wisest, who like Socrates, knows that his wisdom is in truth worth nothing. And so I go about the world obedient to the god, and search and make enquiry into the wisdom of any one, whether citizen or stranger, who appears to be wise; and if he is not wise, then in vindication of the oracle I show him that he is not wise. . .<sup>1</sup>

We soon see that, although enlightenment is easy in thesi, yet in hypothesi it is difficult and slow of accomplishment . . . [as] there are never wanting others who promise with much confidence that they are able to satisfy our curiosity, it must be very hard to maintain in or restore to the mind (especially the mind of the public) that bare negative which properly constitutes enlightenment.<sup>2</sup>

Hugo Grotius, the so-called "father of modern international law," and early figure in the natural rights tradition, is also the defender of a universalist ethic. Grotius's theory is characterized by some contemporary scholars as presenting the international realm as a universal society of individuals. This characterization presents his thought as subordinating the obligations and ties between individual members of a community to the obligations and ties between individuals in universal

society. However, he organizes society as a hierarchy that justifies and emphasizes the community's imposition of obligations. Grotius's theory is more complex because it blends elements of a universal ethic with the notion of community in what I shall call a "Grotian conciliation."

To question this universalist interpretation of his thought is to discuss Grotius in terms of a contemporary debate in international relations between moralists and state-centrists.<sup>3</sup> Moralists have often used Grotius to support the argument that a universal moral code that applies to relations between individuals ought to be respected by states as well.<sup>4</sup> The state ought not to operate according to the internal obligations it has to its citizens alone--which would be the argument of many state centrists--but should subordinate internal obligations to those external obligations that bind each man to every other individual coexisting in universal society. An approach emphasizing the elements of universalism found in Grotius's thought supports this moralist argument.

One interpretation exemplifying the emphasis of universalist elements found in Grotius is Hedley Bull's characterization of Grotian sociability as "solidarity."<sup>5</sup> A central premise of sociability as solidarity is that states ought to enforce the natural law which prescribes the sociability and fellowship of mankind.<sup>6</sup> For Grotius, natural law provides the incontrovertible and unimpeachable



basis for all positive law such that, even in interstate relations, individual rights protected by natural law must be respected as sacrosanct. Solidarity means that any one state is responsible for all individuals and that any state's own particular concerns or existence are subordinate to this common concern for all men. In support of sociability as solidarity, Andrew Linklater says that according to Grotius external obligations of individuals may be assumed but not overridden by the state.<sup>7</sup> Grotius does support this interpretation by arguing that natural law applies to every individual and that, as long as man's nature itself remains unchanged, natural law is universal and immutable.<sup>8</sup> The state may aid man in fulfilling obligations deriving from natural law, but may not override these individual obligations for the sake of any perceived greater good. Grotian sociability as solidarity reinforces the notion that society for Grotius is primarily universal.

Grotius's statements in De Jure Belli ac Pacis (and other of his works as well) often support the idea that all positive law must defer to natural law and rights--this shall not be contested.<sup>9</sup> But to interpret his sociability as solidarity is to overemphasize the universalist elements in Grotius's thought.<sup>10</sup> I shall contend that an analysis cannot stop here if it is to be supported by a Grotian foundation. Grotius himself means much more by sociability and universalist elements of his thought cannot be isolated

without distortion of meaning. Although Grotius does not address the debate between moralists and state centrists, his thought viewed in light of that debate may present an alternative to either approach. I shall argue that the accommodation of universalism and community is not equivalent to the moralist approach; and I shall do so by first examining the works of Grotius, and then comparing his approach to the universalism of Immanuel Kant. If Grotius's conciliation cannot be interpreted as a universal ethic, then a dependence upon his thought as a foundation for contemporary theory must be the result of a choice. Grotius challenges theorists to choose either to base a universalist ethic upon another foundation or to incorporate a notion of community in universalism and retain the Grotian conciliation.

#### Preliminary Remark

Before proceeding, several terms to be used in the following argument should be introduced. Grotius's statements that are relied upon by moralist scholars as evidence of a universalist ethic are often referred to in this thesis as "liberal." This is because such statements share features with liberal theory. Both liberal theory and an international universalist ethic exhibit an emphasis upon the individual and upon equality between individuals.<sup>11</sup> Liberals characterize the state as an entity responsible to the standard of justice rather than to the standard of the

good.<sup>12</sup> This suggests that individuals are equally capable of choosing the good and need only be free to do so; the implication is that the state or any authority ought not impose a value upon individuals which could create a means of distinguishing between men. Likewise, a universalist ethic characterizes the state as an entity that ought to be confined to reinforcement of the universal obligations existing between individuals. To suggest that universalist statements made by Grotius are liberal is to suggest that he at times emphasizes the individualism and equality also present in liberal thought.

Another term that needs clarification is "community." Communitarians have been critical of the liberal tradition, claiming that morality and obligation do not arise from the interaction of individuals in accordance with a universal principle; rather morality and obligation require the context of a community in order to make sense. Part of the argument for conciliation contends that, in his national law theory, Grotius includes a justification of community. In doing so, Grotius does not prove to be a communitarian, but to offer a conciliation which accommodates community and individualism in a theory not adequately represented as a universalist ethic.

The concepts of liberalism and community are not introduced in an attempt to fit Grotius into the larger debate between liberals and communitarians. Rather it is to

suggest that a problem exists in the characterization of Grotius as a universalist--he accommodates a notion of community which is not usually seen as consistent with a liberal framework such as that of contemporary universalists.

## NOTES

<sup>1</sup> Plato, "Apology," in Dialogues of Plato, ed. J. D. Kaplan, trans. Jowett (New York: Washington Square Press, 1951) 13.

<sup>2</sup> Immanuel Kant, Critique of Judgment, trans. J. H. Bernard (New York: Hafner Press, 1951) 137.

<sup>3</sup> Some of the scholars referred to here as presenting Grotius as a moralist are: Andrew Linklater, Men and Citizens in the Theory of International Relations (New York: St. Martin's Press, 1982); Charles Beitz, "Bounded Morality: Justice and the State in World Politics," International Organization, XXXIII (Summer 1979) 405-429; Hersch Lauterpacht, "The Grotian Tradition in International Law," in International Law: A Contemporary Perspective, ed. Richard Falk, Friedrich Kratochwil, and Saul H. Mendlovitz (Boulder: Westview Press, 1985) 10-35; and Hedley Bull, "The Grotian Conception of International Society," in Diplomatic Investigations: Essays in the Theory of International Politics, ed. Herbert Butterfield and Martin Wight (Cambridge: Harvard University Press, 1961) 51-73. One of many examples of the state centrist position is Michael Walzer, "The Moral Standing of States: A Response to Four Critics," Philosophy & Public Affairs, IX (Spring 1980) 209-229.

<sup>4</sup> This is a generalization of the arguments presented by some of the moralists cited in footnote 3 above.

<sup>5</sup> Bull, 51-73, Bull's stance on Grotius is different from others, as his is a critique of the solidarist position; Beitz and Linklater, who both concur with the solidarist position, cite Bull's interpretation as authoritative. Sociability itself is the natural attraction of each human being toward others of his species and will be discussed at great length below.

<sup>6</sup> Bull, 51-73.

<sup>7</sup> Linklater, 76.

<sup>8</sup> At one point Grotius says, "What we have been saying would have a degree of validity even if we should concede that which cannot be conceded without the utmost wickedness, that there is no God, or that the affairs of men are of no concern to him." Prolegomena to the Law of War and Peace, trans. Frank W. Kelsey (Indianapolis: The Bobbs-Merrill Company, Inc., 1957) 10.

<sup>9</sup> Hugo Grotius, The Rights of War and Peace, trans. A. C. Campbell (New York: M. Walter Dunn, 1901).

<sup>10</sup> This would apply for other universalist interpretations of Grotius beside that of solidarity.

<sup>11</sup> Admittedly liberal theory covers a great range and this characterization is not to suggest otherwise. For just one example see John Rawls, A Theory of Justice (Cambridge: Harvard University Press, 1971).

<sup>12</sup> For a characterization of liberal theory made by critics expressing communitarian concerns, see Steven B. Smith, "Hegel's Critique of Liberalism," American Political Science Review LXXX (March 1986) 121-139; also see Michael Sandel, Liberalism and the Limits of Justice (Cambridge: Cambridge University Press, 1982).

## CHAPTER II

### CONCILIATION I: THE CONTEXT OF SKEPTICISM

In order to discuss Grotius's accommodation of community and individualism, one must discuss Grotian sociability as other than solidarity. This task is complicated by the realization that Grotius does not proffer one theoretical framework, but changes his thought over time.<sup>1</sup> One might consider the Grotian conciliation in light of the alterations in Grotius's thought between De Jure Praedae and the Belli. If the changes he makes cannot be explained by any change in his accommodation, then something else must explain the changes. If Grotius offers a conciliation similar in both the Praedae and the Belli, then this is a good indication that he considered community and individualism to be compatible. This is a first step toward separating Grotius's from a universalist position. I intend to argue that the alterations that Grotius effects can be explained in terms of his change from a dependence of reason upon will to a dependence of will upon reason. In other words, the changes in his thought can be understood in terms of the sixteenth and seventeenth century debates over skepticism rather than in terms of the conciliation itself.<sup>2</sup>



## THE DEBATE

The relevant context of skepticism is a debate concerning the extent of man's knowledge and freedom. There have always existed debates over the extent of man's knowledge. The sixteenth century debate between Luther and Erasmus concerned freedom as well as knowledge.<sup>3</sup> Inherent in Luther's arguments is the premise that man does not gain salvation by any physical act or act of reason because God's will is completely unfettered--therefore, God's will and so his grace is not predicated upon the behavior of any individual man.<sup>4</sup> Through the criterion of conviction, the individual can know that he has been saved; he can know God's will.<sup>5</sup> This does not establish any law of nature accessible to man's reason. For Luther, God (the universal) is accessible but is not bound by reason.<sup>6</sup> The question of will versus reason for Luther (and others) is a question concerning freedom: God is free from laws of reason binding his will; and man is free from ecclesiastical authority, since that authority can have no power over the will of God, and thus no definitive criterion of God's will other than that accessible to the individual himself.<sup>7</sup> Man's freedom for Luther then is restricted to the ascertainment of a criterion for God's will; here the individual is given a central place.

Luther argues that the will predominates over reason. In so arguing, he follows the sentiment of Duns Scotus

rather than St. Thomas.<sup>8</sup> If God's reason predominates, as Aquinas would say, then objects have a specific nature which man can discover through his own reason. In this way, men participate in God's reason; the world is lawful; and to a certain extent man can know the world as God created it. If God's will predominates as Scotus and Luther would argue, then things do not have a nature knowable to man, for God could have created the world entirely different.<sup>9</sup> God's will, according to the Scotists, is not bound by the dictates of reason.<sup>10</sup> In his own transition between the Praedae and the Belli, Grotius moves from a Scotist to a Thomist position.

It is reasonably clear that Grotius's position in the Belli, when seen in the context of this debate, is that of a Thomist. This is the position taken by both Charles Edwards and A. H. Chroust and is supported by many statements made by Grotius. At one point, Grotius says:

What we have been saying [about the status of natural law and rights] would have a degree of validity even if we should concede that which cannot be conceded without the utmost wickedness, that there is not a God or that the affairs of man are of no concern to him. The very opposite of this view has been implanted in us partly by reason . . .<sup>11</sup>

Here, as Chroust and Edwards argue, Grotius is not supplanting the medieval concept of God with the idea that God is merely a first principle from which we can deduce the laws of the remainder of the universe.<sup>12</sup> In other words, the typical interpretation that this statement is modern and

secular does not fully appreciate the extent to which Grotius retains God as necessary for the hierarchical structure of the universe.<sup>13</sup> Grotius is asserting in this statement, as Chroust and Edwards both strongly affirm, that natural law is not dependent upon God's will, but upon his reason. Therefore, underlying the contingency of the world is a lawful immutable nature which man, created in God's image of a reasoning being, can know.

Grotius's position in the Belli may be Thomist but that identification does not explain the alterations he makes in the Belli from his theory as espoused in the Praedae. The skeptical debate provides a valuable context within which to view Grotius's works, as Chroust and Edwards suggest, but it is important not to view either the Belli or the Praedae in isolation.<sup>14</sup>

#### PREDOMINANCE OF THE WILL

In the Praedae, Grotius has not yet developed his position. In the Belli Grotius articulates a position on law which affirms a standard independent of God (although God is the Author); such a standard is absent in the Praedae. Grotius opens the Praedae Prolegomena: "What God has shown to be His will, that is law. This axiom points directly to the cause of law, and is rightly laid down as a primary principle."<sup>15</sup> He cites Aquinas as the source for this statement. However, Aquinas states that God's will

comprises divine law and divine law for Aquinas can be known to man by revelation alone, at the behest of the will of God.<sup>16</sup> Instead of following Aquinas in this, Grotius identifies all natural law as the will of God, thereby conflating the Thomist categories of natural and divine law. Hence Grotius in this statement does not follow Aquinas, but indicates that reason is dependent upon the operation of the will. His sentiment is then closer to Scotus than Aquinas.

How does Grotius move closer to a Scotist predominance of the will by conflating Aquinas's categories? Divine law equivalent to the will of God is, according to Aquinas, beyond the parameters of man's reason. Man can only know this law if God so desires. To say that all law emanates from God's will then is to place all law beyond reason; it is to suggest that no X is X due to a law of its nature, but is X due to God's command. Other statements made in the Praedae support the contention that Grotius's early position is more closely related to that of the Scotists. He says that God's will is law: ". . . [W]hence Anarchus has correctly inferred . . . that a given thing is just because God wills it, rather than God wills the thing because it is just."<sup>17</sup> This indicates that any X is not absolutely just or good because of its nature, but because of God's command. God's command could have been different, which would make the nature of X different accordingly. Man's goal becomes to know God's will--Grotius's position then is reminiscent

of that of Luther.<sup>18</sup> Grotius continues, ". . . [T]he goddesses Right and Justice are not so much the assessors of Jove, as Jove himself is Right and Justice, and the most ancient and perfect of all laws."<sup>19</sup> God does not create a law which man can know by reason--God is law. This accords with the idea that God's will is the natural law.

His position that all law is comparable to what Aquinas calls divine law does not force Grotius to also suggest that all law is hence beyond man's knowledge. Man's mission changes from discovering immutable law through his own reason to finding the criterion of God's will. Grotius's stance becomes much like Luther's. And as with Luther, the criterion of God's will is internal to the individual and so should similarly free the individual from any body claiming to disseminate an authoritative interpretation of God's will.

#### THE CRITERION OF CONSENT

According to Aquinas, since the divine law may not be known through reason, man can only know God's will through revelation.<sup>20</sup> God reveals his will as he wants man to know it. Grotius's identification of all law as God's will could place all law beyond the knowledge of man, were Grotius not to articulate an alternative means of knowing God's law. Grotius delineates a criterion of God's will accessible to the individual. He says first that, "The will

of God is revealed, not only through oracles and supernatural portents, but above all in the very design of the Creator. . . . "21 He adds, "And the Creator revealed to us once and for all, at our birth, whatever we are permitted to know."22 This implants within man a one-time revelation of God. Man's knowledge is freed from dependence upon the continuing revelation of God, since this is implanted within the individual; and yet this revelation is a standard dependent upon God's will. Grotius appears to bridge the Scotist and Thomist positions in originating a criterion for knowing God's will.

The criterion that Luther identifies for knowing God's will is the individual's conviction of his own salvation; for Grotius the criterion seems to be the will of the individual. Grotius says that man's will is law.<sup>23</sup> Since the natural law is not known through reason--since the law is not extant in the nature of things but in God's will--it must be known by man's will. The one-time revelation of God is expressed in man's will and for this reason, man's will is law itself. This is not to suggest that Grotius is saying that the individual will is always equivalent to God's will, but that it is probable evidence. Grotius says that one individual may not impose his will upon another.<sup>24</sup> This accords with Luther's sentiment that the criterion of God's will, being an internal criterion, should not be imposed upon individuals since there exists no authoritative

representative of God's will; any individual selected by God is capable of knowing God's will. Grotius seems to agree that no authority exists to expound God's will and impose it externally; the internal standard of man's individual will exists as a law to himself. The problem which arises with Grotius's criterion, however, is that ultimately he does support an external authority representing God's will--that authority is the consent of man.

On consent, Grotius says that the rays of divine light (or reason) are clouded for the individual but are visible in the agreement of nations.<sup>25</sup> In the individual, vice wars with good and in the presence of such discord, the individual cannot clearly see the good. This is reminiscent of the Greek idea of the One as the highest good--God is concord, which is also law, truth and good.<sup>26</sup> Concord between men is closer to the true and good since concord is more likely indicative of the One. Grotius says, "[U]niversal concord can exist only in relation to what is good and true."<sup>27</sup> So consent reflects God's will even more strongly than does individual will. This conflicts with the notion that there is no authoritative exposition of God's will, because although one's own will is the criterion, if that conflicts with the will of many, then to argue with that general consensus would be to encourage discord; in such a case, a steadfast stance of the individual, if held in opposition to the many, would not be an adherence to

truth but a misconception of the One. God's will which is the only standard of the good and true, is more certain when understood through consent than through one's individual will.<sup>28</sup> Thus does Grotius's solution ultimately appear to be fairly problematic as a solution to the skeptical problem of knowledge--the internal criterion appears to wane as expressive of God's will in the face of the general consent of man.

#### INDIVIDUALISM AND COMMUNITY

The notion of consent does not appear to be the best device for securing man's knowledge against skeptical attacks. In the Belli, Grotius emphasizes the predominance of reason over the will in an argument more closely resembling that of Aquinas; the Belli presents a stronger argument for securing knowledge perhaps than the argument in the Praedae (the latter of which is ultimately dependent upon consent as a criterion for knowing God's will). The alteration Grotius makes can be understood in terms of the debates about skepticism. If Grotius recognized a need to abandon consent when he wrote the Belli, he did not recognize the need to abandon either universalism or community.<sup>29</sup> The conciliation present in the Praedae appears in the Belli in much the same form.

In both the Praedae and the Belli, Grotius posits a universal society hierarchical under God; all men exist



universally, yet the community holds a revered place within the entirety. Throughout the world, men are brothers under God and even the obligations made do not erase their fellowship with one another. Although men enter into states, they are still bound to be fellows with one another.<sup>30</sup> Grotius says:

But wise and devout men have shown that God was founder and ruler of the universe and as Father of mankind that He had not separated human beings as He did the rest of living things into different species but willed them to be one race; that He had given them the same origin, the same structural organism, the ability to look each other in the face, language and other means of communication in order that they might recognize their natural social bond and kinship.<sup>31</sup>

This desire for fellowship is the sociability of men.

Yet sociability as a natural law is the result of the will of God, as is all natural law in the Praedae. As such, once again, it is not part of man's nature, but is God's command. It is up to the individual to know and to follow that command. God commands that men be sociable and it is thus up to men to do everything possible to fulfill that command. If states make it easier to follow God's command of sociability--and Grotius suggests that states in fact do--then it is God's command to enter into states.<sup>32</sup> This command accords with Grotius's portrayal of the universe as a hierarchy under God. Men are accountable to kings and kings are directly accountable to God, the ultimate sovereign.<sup>33</sup> Thus does God's command justify the state.

And so in early Grotius there exists the conciliation which also exists in the Belli.

Grotius's conciliation, since present in both the Praedae and the Belli, does not explain the change in his thought over time. These changes are comprehensible in the context of skepticism. Since conciliation is important to his thought throughout, it would seem that to extract the universalist elements and portray his as a universalist ethic would do damage to the complexity of his thought. This should become more clear in the next chapter, in discussing Grotius's conciliation in the Belli.

## NOTES

<sup>1</sup> Fujio Ito and Richard Tuck each mention this alteration but neither in great depth. See Ito, "The Thought of Hugo Grotius in the Mare Liberum," The Japanese Journal of International Law XVIII (1974) 1-14; and Tuck, Natural Rights Theories; Their Origin and Development (Cambridge: Cambridge University Press, 1979).

<sup>2</sup> Grotius's thought is discussed in terms of skeptical battles by several authors. See A. H. Chroust, "Hugo Grotius and the Scholastic Natural Law Tradition," The New Scholasticism, XVIII (April 1943) 101-133; Charles S. Edwards, Hugo Grotius, The Miracle of Holland: a Study of Political and Legal Thought (Chicago: Nelson-Hall, 1981); Richard H. Popkin, The History of Scepticism: From Erasmus to Spinoza (Berkeley: University of California Press, 1979).

<sup>3</sup> Actually the question of freedom accompanies the skeptical debates even for Scotus. See Chroust, 103-104.

<sup>4</sup> Popkin, 1-8. See also Sheldon Wolin, Politics and Vision (Boston: Little, Brown and Company, 1960) 143-152.

<sup>5</sup> Popkin, 3. Popkin says, "In this declaration of Christian liberty, Luther set forth his new criterion of religious knowledge, that what conscience is compelled to believe on reading Scripture is true . . . To raise even the possibility that the criteria could be faulty was to substitute another criterion by which the accepted criteria

could be judged, and thus, in effect, to deny the entire framework by which orthodoxy had been determined for centuries."

<sup>6</sup> Luther says, "It is then essentially necessary and wholesome for Christians to know that God foreknows nothing contingently, but that he foresees, purposes and does all things according to His immutable, eternal and infallible will." Martin Luther, Erasmus-Luther Discourse on Free Will, trans. Ernest F. Winter (New York: Frederick Unger Publishing Co., Inc., 1982) 106.

<sup>7</sup> Of course the problem with Luther's solution is that identified by Popkin--that once a criterion is challenged (for example, that of the church), then any other becomes vulnerable to challenge. We shall see that Grotius suffers problems beyond this. Popkin, 4.

<sup>8</sup> According to Chroust, the Thomist-Scotist debate was revived in the sixteenth century. Chroust, 101-102. Popkin indicates the differences between the skeptical debates over time and I am not attempting to conflate these differences by discussing the different arguments together, but am trying to clarify the reason-will debate in terms by which Grotius may be understood.

<sup>9</sup> Of course the question never arises for Scotus whether the cause is God's creation. As Chroust says, this is never an epistemological question in the medieval ages--one can still know the world and know that God created it.

Chroust, 104.

<sup>10</sup> Chroust, 103-105. Also see Frederick Copleston, A History of Philosophy, vol. III (Westminster, Maryland: The Newman Press, 1957).

<sup>11</sup> Hugo Grotius, Prolegomena to the Law of War and Peace, trans. Frank W. Kelsey (Indianapolis: The Bobbs-Merrill Company, Inc., 1975) 10.

<sup>12</sup> In other words, Grotius should not be interpreted to be secular in the way that Descartes (correctly or incorrectly) is often interpreted.

<sup>13</sup> Charles Beitz calls Grotius's theory "secular." See Beitz, "Bounded Morality: Justice and the State in International Politics," International Organization, XXXIII (Summer 1979) 405-429.

<sup>14</sup> The purpose of Chroust and Edwards is primarily to correct the impression that Grotius is secular; to do so, each concentrates mainly upon "De Imperio Summarum Potestatum circa Sacra" and the Belli, respectively. The Praedae was written before either of these works.

<sup>15</sup> Grotius, De Jure Pradae Commentarius, trans. Gwladys L. Williams and Walter H. Zeydel, ed. James Brown Scott (Oxford: Clarendon Press, 1950) 9.

<sup>16</sup> Thomas Aquinas, Aquinas: Selected Political Writings, ed. A. P. D'Entreves, trans. J. G. Dawson (Tartowa, New Jersey: Barnes & Nobel Books, 1981). Aquinas says, "In addition to natural law and to human law there had

of necessity to be also a divine law to direct human life. . . . But because man is destined to an end of eternal blessedness, and this exceeds what is proportionate to natural human faculties as we have already shown, it was necessary that he should be directed to this end not merely by natural and human law but also by a divinely given law." Aquinas, 58-59.

<sup>17</sup> Grotius, Praedae, 8.

<sup>18</sup> This refers back to Luther's own articulation of a criterion. Neither Luther nor Grotius are skeptics, although beginning with the predominance of God's will and so each need to find a criterion of man's knowledge.

<sup>19</sup> Grotius, Praedae, 8.

<sup>20</sup> Aquinas, 58-59.

<sup>21</sup> Grotius, Praedae, 8.

<sup>22</sup> Grotius, Praedae, 9.

<sup>23</sup> Grotius, Praedae, 18.

<sup>24</sup> Grotius, Praedae, 18.

<sup>25</sup> Grotius, Praedae, 12.

<sup>26</sup> Grotius, Praedae, 12.

<sup>27</sup> Grotius, Praedae, 12.

<sup>28</sup> One might want to look at Patrick Riley, "The General Will Before Rousseau," Political Theory, VI (November 1978) 485-513.

<sup>29</sup> According to Jules Steinberg, consent is not necessary in most liberal theory--what is present is usually a normative theory of the state which needs to be agreed upon in order for the theory to work. so the idea of consent to legitimate the state drops out. See Steinberg, Locke, Rousseau, and the Idea of Consent: An Inquiry into the Liberal Democratic Theory of Political Obligation (Westport, Connecticut: Greenwood Press, 1978).

<sup>30</sup> Grotius, Praedae, 19.

<sup>31</sup> Grotius, Mare Liberum, trans. Ralph von Deman Magoffin, ed. James Brown Scott (New York: Oxford University Press, 1916) 1.

<sup>32</sup> Grotius, Praedae, 19.

<sup>33</sup> Grotius, Mare Liberum, 1.

## CHAPTER III

### CONCILIATION II: RETURN TO REASON

In the Belli, Grotius incorporates universal society and community in a hierarchical structure as he did in the Praedae, but in place of the predominance of the will and consent he asserts the predominance of reason and natural rights. Basically the conciliation stays the same, while the theoretical structure itself changes.

Since both universalist and communitarian concerns are accommodated in a Grotian conciliation, one cannot deny that Grotius shares certain of the universalist concerns espoused by many who consider him to be a cosmopolitan.<sup>1</sup> At one point--and he makes many similar statements--he says:

If any person should prevent any other person from taking fire from his fire or a light from his torch I should accuse him of violating the law of human society, because that is the essence of its very nature.<sup>2</sup>

However, the universalism of human fellowship is not his only concern. The problem of man which Grotius faces is more complex and it is in recognizing this that one begins to realize that one omits aspects of Grotius's thought when interpreting his theory to be entirely universalist. Grotius does not entirely rewrite the Greek ideas upon which he depends so heavily; rather he retains community and



attempts to unite it with individualism.<sup>3</sup> The problem which Grotius faces is lost in a universalist interpretation: The problem is to propound the standards which render man the subject of morality and justice while simultaneously to uphold the worth and superordination of man's associative relations which grant him a place and identity.

#### MAN AS A SOCIAL BEING

According to Grotius, man is a social being. He says:

But among the traits characteristic of man is an impelling desire for society, that is, for the social life--not of any and every sort, but peaceful, and organized according to the measure of his intelligence, with those who are of his own kind . . . Stated as a universal truth, therefore, the assertion that every animal is impelled by nature to seek only its own good cannot be concluded.<sup>4</sup>

If Grotius begins with man as social, it seems requisite to ask where individuality enters. In fact, Grotius's statement is reminiscent of Aristotle's suggestion that man outside society must be a god or a beast.<sup>5</sup> For Aristotle, fulfilling one's humanity consists in contributing to a polis; virtue lies in one's contribution to society.<sup>6</sup> Man's very happiness or self-sufficiency is societal for Aristotle--the good life with the appropriate externalities, such as friends, which make one complete and whole.

Grotius does not share Aristotle's idea that individual fulfillment is to be found in the polis. What is natural for Aristotle is identified with man's end--it is man's purpose to fulfill himself in society. The

conventional for Aristotle is identified with nature, as man's end is both natural and conventional; what it means to be a man is to live in society.<sup>7</sup> Grotius's idea is different; for Grotius, society is that universal society of all men.<sup>8</sup> Thus the conventional does not necessarily fulfill the end of man unless it is in accordance with law governing that universal society.<sup>9</sup> This places the Grotian resolution in a different perspective than the Aristotelian--dependent upon a hierarchy rather than the polis. Ultimately Grotius does address community in a manner reminiscent of Aristotle, but, insofar as Grotius's society is universal, the classical theory of the polis is not replicated. Included in the notion of universal society is the idea that each individual may justifiably assert claims which comprise obligations incumbent upon all others; this portrayal is quite different than one positing obligations as incurred between sovereign and citizens. The polis writ large does not translate well as the object of a communitarian theory. Thus the idea that Grotius's theory is universalist appears to be viable, and sociability seems to be a conception of universal fellowship, with each individual sharing obligations with every other individual in universal society.

## STOIC ORIGINS

In identifying man's sociability with a universal society, Grotius is following Zeno, Chrysippus, and Seneca rather than Aristotle, i.e., Grotian sociability derives from the Stoics.<sup>10</sup> The Stoics do have a universalist ethic. They say that the universe is a whole, informed by the material principle of Reason.<sup>11</sup> Man fulfills his end by cultivating his Reason, and thus by knowing the oneness of the universe. Since all men are capable of knowing this, there is an equality in Stoicism which is not present in other Greek thought. Man has certain responsibilities to others, who coexist in the universal community; he is not separated from his fellows by features which identify A differently than B. Man's nature is to participate in the One rather than in the conventional and the One seems not to afford such distinction. Grotius says that man has been "endowed with the faculty of knowing and acting in accordance with general principles. Whatever accords with that faculty is not common to all animals but peculiar to the nature of man."<sup>12</sup> In saying this, he reflects a sentiment which the Stoics seem to present as well.

Controversy exists surrounding aspects of Stoic thought.<sup>13</sup> The concept of sociability is a concept more complex than can be appreciated if it is simply incorporated within contemporary theory as part of man's inclination toward every other individual in that universal society.<sup>14</sup>

When we turn to the roots of sociability, we find that the concept may be more amenable to community than Grotius appears to conceive it to be.

In introducing his concept of sociability, Grotius quotes Marcus Aurelius:

Man was born to benefit others . . . It would be easier to find a thing of earth out of relation with the earth than a human being wholly cut off from human kind . . . That which has the use of reason necessarily also craves civic life.<sup>15</sup>

And Seneca:

Take it [society] away and you will destroy the sense of oneness in the human race, by which life is sustained. It is, in fact, taken away, if you shall cause that an ungrateful heart is not to be avoided on its own account.<sup>16</sup>

Both statements appear to support universal society. John M. Rist says that according to Marcus Aurelius, there exists a natural law of community.<sup>17</sup> Sociability in this sense, says Rist, is connected to the early states of oikeiosis, a feeling of endearment, especially concern for one's family.<sup>18</sup> S. G. Pembroke elucidates Rist's comment by explaining that oikeiosis is a disposition toward another being.<sup>19</sup> It is the beginning point of justice.<sup>20</sup> But it cannot be that any disposition results in justice. Pembroke says,

If Chrysippus or any Stoic did make a connection between justice and oikeiosis, it is unlikely that they excluded that stage of being well-disposed to moral values which is the final stage in the development of oikeiosis to oneself.<sup>21</sup>

Oikeiosis to others cannot be an "escape route" enabling a man to behave justly irrespective of his moral condition.<sup>22</sup> In other words, sociability for the Stoics does not include moral obligation unless the actor is a virtuous being. For the Stoics, sociability is the beginning of one's virtue--a movement toward other men, toward the familiar, the desire to be with others. This could be called a fellowship, as Grotius quotes Seneca. However, for the Stoics this is not itself the basis of an ethic, rather the fitting of the self into the whole encompasses man's virtue. Therefore it would seem that only if the individual is a virtuous being (or a wise sage) is he then able to combine the concept of the ethical with that of his relations with others in the whole.<sup>23</sup>

To return to the citations used by Grotius, now another possibility arises for interpretation. Avoiding an ungrateful heart to Seneca might equate to avoiding oikeiosis or sociability with the nonsage who can never truly fit into the cosmopolity. This would accord with justice since it would grant the nonsage his due. The Stoic ethic is an elitist ethic; the cosmopolity is not quite as universal as it might appear; and sociability is merely an inclination which may be the starting point of justice and virtue only if the actor is a just man himself whose relations are informed by such an ethic.<sup>24</sup>

Grotian sociability, on the other hand, does not depend upon the individual's identity as a sage for the accommodation of justice and morality. For Grotius, it is up to each individual to maintain society.<sup>25</sup> Grotius is reluctant to require a man to be characterized as a good sage in order to be capable of some responsibility for justice and society. Grotius identifies the bridge between the universal natural law and the association of man to be the right and responsibility of every man. He refuses to make the same commitment to community which the Stoics make. For Grotius a man need not be good in order to be just in his inclination toward sociableness.

As Rist says, Stoic *oikeiosis* is the concept of avoiding the alien and of moving toward the familiar.<sup>26</sup> In his rendition of sociability, Grotius reinterprets this concept so that the basis of justice is to leave to another what belongs to him.<sup>27</sup> Similarities can be seen between the two: What is familiar to another is alien to me; I am drawn to my own as opposed to another's. Inherent in the concept is the idea of attraction as well as repulsion, which forms the basis for sociability as well as justice. But this is inherent to justice only under Grotius's pen because, as suggested, for the Stoics man must be just himself before *oikeiosis* indicates "moral" relationships. To discern between the alien and familiar for Grotius is given a moral meaning because to him this defines a behavior conducive to

peace; all must participate in sociability for peace to reign.<sup>28</sup>

Thus Grotius does alter the Stoic notion of sociability; he seems to have freed man from distinctions of goodness or other attributes that the Stoics (and others) use to differentiate between individuals.<sup>29</sup> Grotius, in freeing men from such attributes of distinction, is able to more readily support a universal society. Individuals, according to Grotius, are recognized as equal, and thus society as a fellowship among equals rather than a society of wise sages is a universalist ethic. To stop here in the quest for the meaning of Grotian sociability, however, would be to do a great disservice to the problem which Grotius faces. Grotius does not support the equality of men, undifferentiated by any features relevant to a community, as it might seem from the discussion thus far. So, as it was important to see the differences between his concept and its Stoic derivation in order to gain an appreciation of universalism in Grotius, it is as important to look at other concerns which render Grotius's a theory of community as well.

#### ARISTOTELIAN INFLUENCE AND GROTIAN RIGHTS

Grotian rights cannot merely be interpreted as the *de jure* ability to do or own X, as one might use the term today. Rights for Grotius are not exactly that essence of

humanity which identifies each as an equal.<sup>30</sup> The Grotian notion of rights, when viewed in concert with sociability, addresses the complexity of man and his responsibilities to other men and society.

In the Belli, Grotius offers three definitions of right: The maintenance of the social order; a moral quality; and law as far as what is proper.<sup>31</sup> The presumption underlying all three is that a right is not dependent upon the duty or obligation of another or upon the silence of the law.<sup>32</sup> In other words, to have a right, one need not wait upon the admission of another that such right exists; and a right is not merely that which the law does not proscribe. The natural law ought to prevent one from exceeding one's right--but this is merely a passive role for right.<sup>33</sup> A passive role entails the moral quality of a right attaching to one who has an accompanying obligation. An actor who stays within the confines of law, and so discharges his obligation, acts rightfully.<sup>34</sup> In Grotius's active rights theory, the moral quality attaches to the rightholder.<sup>35</sup> As Tuck says, the natural law for Grotius is "respect rights" which does not translate to a rule to adhere to one's obligation, but rather it requires that one act in a manner which maintains society.<sup>36</sup> By acting in accordance with rights, one exercises responsibility for society. Since that amount of responsibility differs between individuals, to respect rights also involves



respecting another's place in terms of responsibility for the society. Discharging this responsibility makes one a moral being.

In behaving rightfully, one upholds law and justice and maintains the social order. In so doing, one acts in accordance with the inborn tendency toward society. This tendency translates into different responsibilities individuals have toward society.

While Grotius says that each man has a responsibility for peace and so for society--and so each has rights--ultimately he does distinguish between individuals in a manner similar to the Stoics and, to a greater extent, Aristotle. Grotian society not only is universal but it is organized hierarchically and the feature distinguishing between individuals is right. He ultimately recognizes that certain individuals hold a special place in a community because of their responsibility for society. Certain individuals who have greater responsibility for maintaining society rightfully hold a higher position in the hierarchy of universal society. The distinction between individuals may not depend upon the attribute of goodness, as it did for the Stoics, but Grotius still adheres to a distinction based upon the rights each may have in accordance with a role, such as sovereign. Grotius says,

[A]s all members of the human body agree among themselves, because the preservation of each conduces to the welfare of the whole, so men should forbear from mutual injuries, as they were born for

society, which cannot subsist unless all the parts of it are defended by mutual forbearance and good will. But as there is one kind of social tie founded upon an equality, for instance among brothers, citizens, friends, allies, and another on pre-eminence as Aristotle styles it, subsisting between parents and children, masters and servants, sovereigns and subjects, God and men, so justice takes place either amongst equals, or between the governing and governed parties, notwithstanding their differences of rank. The former of these, if I am not mistaken, may be called the right of equality, and the latter the right of superiority.<sup>37</sup>

Thus although men have rights equally, they do not have equal rights.

In a sense, one could argue that in discussing rights as unequal, Grotius is only ensuring that the sovereign is accountable to natural law. Without the existence of natural law and its applicability to all men, positive law might have no restraints. At least Grotius has subjected the sovereign to a law that constrains his ability to act; all men have rights which may not be infringed, even by the sovereign. Insisting that rulers, fathers and masters in positions of power also are responsible to the standards of right does limit such persons in their actions and relations. But Grotius insists that superior rights are superordinate to inferior rights, which suggests that in any conflict the superior are overriding.<sup>38</sup> This, of course, does not free rulers from the standards of natural right. But it does accord certain individuals a special place and role in the universal whole because of their identification in the community. In Grotius's hierarchy the association

not only maintains the totality of universal society, but it also exists as a body whose interpretation of natural law is more authoritative since its responsibility is greater.<sup>39</sup>

Mentioning Aristotle in his discussion of unequal rights introduces the source from which Grotius gains this portrayal of man's sociability. It is in Aristotle's discussion of friendship that he discusses unequal relationships in a manner comparable to Grotius.<sup>40</sup> The difference between Grotius and the Stoics--the allowance of man's place and identity--is less a difference than it initially appeared to be.

On friendship, Aristotle says:

A king's friendship to his subjects involves superior beneficence. For he benefits his subjects, since he is good and attends to them to ensure that they do well, as a shepherd attends to his sheep . . . by nature father is ruler over sons, ancestors over descendants, and king over subjects. All these are friendships of superiority; that is why parents are also honored. And what is just in these friendships is not the same in each case, but corresponds to worth; for so does the friendship.<sup>41</sup>

Although it may seem that the concepts of rights and friendship are quite different, Aristotle's discussion of friendship and Grotius's discussion of rights are not quite so distinct. In the first place, both are notions of man's relationships with one another; and, in the second place, both are connected to justice. For Aristotle, man's just relations are simplified when friendship is involved. Friendship is a relation of justice in the sense that a just man will treat another according to the other's virtue,

thence treating the other according to his deserts.<sup>42</sup> For Grotius, man's relations of right similarly entail a relationship in which one is accorded the respect concomitant with the right which he holds and so one's moral position in society is a relevant feature for justice. Both Aristotle and Grotius accord man a place in the community which affects his worth as a human being; the community, as well as one's place in it, is vital to the theory of each in a manner which might not be immediately recognized in Grotius.

The reason that one might not immediately recognize this in Grotius is that, for Aristotle, man's virtue is recognized to be concerned with certain externalities-- Aristotle says for example that wealth and even friends help make it possible to be a virtuous man and so to contribute to the whole or the polis.<sup>43</sup> This accords with Aristotle's notion of justice, which as a mean takes account of particularities of each individual in order to speak of proper treatment or action. Thus it is clear that in Aristotle one's place and identity, being the recognition of what one contributes to the whole, are vital to his notion of justice and friendship; Aristotle's is clearly a theory of the communal relations of man.

Grotius, on the other hand, seems to reject such a notion. In the Prolegomena he says, rejecting the notion of justice as proportional:

To this exercise of judgment [as to what is law] belongs moreover the rational allotment to each man, or to each social group, of those things which are properly theirs, in such a way as to give the preference not to him who is more wise over the less wise, now to a kinsman rather than to a stranger, now to a poor man rather than to a man of means, as the conduct of each or the nature of the thing suggests. Long ago the view came to be held by many that this discriminating allotment is a part of law, properly and strictly so called; nevertheless law properly defined has a far different nature, because its essence lies in leaving to another that which belongs to him or in fulfilling our obligations to him.<sup>44</sup>

Grotius is not rejecting proportional justice as he seems to be in this statement, however. Because Grotius has redefined what is necessary for man's contribution to the society, redefined these as rights, then the other externalities needed by Aristotle for a contribution are superfluous. And what differentiates man's contribution to the whole then is retranslated--while there still exists a differentiation. Thus what may initially appear to be a turning away from a communitarian theory such as Aristotle offers, ultimately is a retranslation, embracing both individualism and communitarianism in a very complex manner.

As early as the Praedae, Grotius accommodates individualism and community and he maintains both through all of the changes made in the Belli. The retention of conciliation amidst other change indicates an acknowledgment on his part of a problem with his response to a skeptical challenge rather than of a problem with his creation of a conciliation. Community may have posed a problem to liberal

universalists since Grotius, but Grotius appears to have found it compatible within his own theory.

Since the moralist interpretations of Grotius often overlook his conciliation, one might expect that a universalist ethic would not admit the same conciliation found in Grotius. A comparison between the thought of Grotius and the universal ethic of Kant supports this expectation. The comparison also helps to suggest that costs may be incurred in extracting universalist elements from the theory of Grotius; and that presenting his theory in the moralist tradition often involves such an extraction.

## NOTES

<sup>1</sup> "Cosmopolitan" is a term used by Kant to indicate universalist concerns. See Kant, "Idea for a Universal History with a Cosmopolitan Purpose," in Kant's Political Writings, trans. H. B. Nisbet, ed. Hans Reiss (Cambridge: Cambridge University Press, 1970) 41.

<sup>2</sup> Grotius, Mare Liberum, trans. Ralph von Deman Magoffin, ed. James Brown Scott (New York: Oxford University Press, 1916) 38. This quote continues: "Why then when it can be done without any prejudice to his own interests will not one person share with another things which are useful to the recipient and no less to the giver? These are services the ancient philosophers thought ought to be rendered not only to foreigners but even to the ungrateful." Note that Seneca's statement in this text does not agree with Grotius's statement here.

<sup>3</sup> Richard Tuck says that John Selden in particular responded to the unhappy resolution effected by Grotius. Richard Tuck, Natural Rights Theories: Their Origin and Development (Cambridge: Cambridge University Press, 1979) 82. Tuck says, "In particular, it [Grotius's theory] stressed individuality in the area of rights, but communality in the area of obligation; and though that might be logically coherent there was a certain psychological implausibility in it." Tuck, 82. Tuck's position derives

from a liberal stance itself; see Tuck, 3.

<sup>4</sup> Grotius, Prolegomena to the Law of War and Peace, trans. Frank W. Kelsey (Indianapolis: The Bobbs-Merrill Company, Inc., 1957) 6.

<sup>5</sup> Aristotle, Nicomachean Ethics, trans. Terence Irwin (Indianapolis: Hackett Publishing Company, 1985).

<sup>6</sup> Aristotle, 257-259.

<sup>7</sup> This is a different solution of the nomos-physis debate than that given by Plato or the Stoics.

<sup>8</sup> This is in addition to the community in his theory, as shall be seen.

<sup>9</sup> "Necessarily" must be added here because the point of the conciliation is that Grotius's is not only a universal society.

<sup>10</sup> Grotius, Prolegomena, 12.

<sup>11</sup> G. B. Kerferd, "What Does the Wise Man Know?" in The Stoics, ed. John M. Rist (Berkeley: University of California Press, 1978) 125-135. Also see George Sabine, A History of Political Theory, 4th ed. (Hinsdale, Illinois: Dryden Press, 1973) 147-153.

<sup>12</sup> Grotius, Prolegomena, 8.

<sup>13</sup> Part of the problem is that the Stoics were not one coherent school but began in Greece and flourished under the Roman Empire and Christianity. See Gerard Watson, "The Natural Law and Stoicism," in Problems in Stoicism, ed. A. A. Long (London: The Athlone Press, 1971) 216-237; also



Sabine, 147-153.

<sup>14</sup> Another problem is that much of the early Stoic writings are mere fragments and much is gathered from Roman sources. See Watson, 216-237.

<sup>15</sup> Grotius, Prolegomena, 8.

<sup>16</sup> Grotius, Prolegomena, 8.

<sup>17</sup> John M. Rist, "The Stoic Concept of Detachment," in The Stoics, ed. John M. Rist (Berkeley: University of California Press, 1978) 263.

<sup>18</sup> Rist, 263.

<sup>19</sup> S. G. Pembroke, "Oikeiosis," in Problems in Stoicism, ed. A. A. Long (London: The Athlone Press, 1971) 114-141.

<sup>20</sup> Pembroke, 122.

<sup>21</sup> Pembroke, 129.

<sup>22</sup> Pembroke, 129.

<sup>23</sup> This accords with Rist's discussion of Stoic justice, which he says depends upon the virtue of the sage who alone can judge according to desert. Rist, 269-272.

<sup>24</sup> In comparison to Pembroke, see Gerard Verbeke, The Presence of Stoicism in Medieval Thought (Washington D.C.: The Catholic University of America Press, 1982) 54-56. Verbeke says that oikeiosis is the starting point of moral life and equates this with the medieval term "synderesis" which he defines as the natural impulse toward what is right. I am not certain to what extent then Verbeke and

Pembroke are in agreement, particularly since Verbeke concentrates on Stoic influence and it is possible that what begins as a starting point became translated as a more close relation by the medieval scholars using the term.

<sup>25</sup> The influence of hierarchy upon sociability shall be discussed in the next section.

<sup>26</sup> Rist, 263.

<sup>27</sup> Grotius, Prolegomena, 9.

<sup>28</sup> On peace, see Grotius, Prolegomena, 6. Here he says that man has a desire for society "not of any and every sort, but peaceful and organized according to the measure of his intelligence, with those who are of his own kind. . . ."

<sup>29</sup> Arete distinguishes between individuals.

<sup>30</sup> Leo Strauss says, "All natural right doctrines claim that the fundamentals of justice are, in principle, accessible to man as man." See Leo Strauss, Natural Rights and History (Chicago: University of Chicago Press, 1950) 28. While this may explain what Grotius thought he was doing, the differentiation Grotius ultimately introduces does seem to make these fundamentals more easily accessed by some than others.

<sup>31</sup> Grotius, The Rights of War and Peace, trans. A. C. Campbell (New York: M. Walter Dunne, 1901) 18-20.

<sup>32</sup> Grotius, Belli, 20.

<sup>33</sup> Tuck, 160-162.

<sup>34</sup> Tuck, 160-162.

<sup>35</sup> Tuck, 75.

<sup>36</sup> Tuck, 67. Grotius discusses the natural law as:  
 ". . . the abstaining from that which is another's, the restoration to another of anything of his which we may have, together with any gain which we may have received from it; the obligation to fulfill promises, the making good of a loss incurred through our fault, and the inflicting of penalties upon men according to their deserts." Grotius, Prolegomena, 9.

<sup>37</sup> Grotius, Belli, 29.

<sup>38</sup> Grotius, Belli, 29.

<sup>39</sup> Grotius, Praedae, 19.

<sup>40</sup> Aristotle, 207-266.

<sup>41</sup> Aristotle, 228. Aristotle says that without community there is no friendship, 229.

<sup>42</sup> John M. Cooper, "Aristotle on Friendship," in Essays on Aristotle's Ethics, ed. Amelie Oksenberg Rorty (Berkeley: University of California Press, 1980) 301-339.

<sup>43</sup> Aristotle, 14-15, 207-266. Also see Aristotle, Politics, trans. T. A. Sinclair (New York: Penguin Books, 1980) 287-288.

<sup>44</sup> Grotius, Prolegomena, 10.

## CHAPTER IV

### KANT'S THEORY AS A UNIVERSALIST ETHIC

Grotius not only justifies the state's existence but, because of the greater moral responsibility he identifies in the rights of the sovereign, he supports the state's role as a mediator between the individual and the natural law as well. A comparison of Grotius's theory to that of Immanuel Kant should indicate that a universalist ethic does not offer such support. To select the universalist elements of Grotius's thought as a foundation for contemporary theory then is not to rely upon Grotius at all. Kant and Grotius share some features in the frameworks each constructs--but the differences, as shall be seen, are important enough to render one a universal ethic and the other a conciliatory theory.

Kant seems a likely candidate for comparison with Grotius on this issue because so many moralists equate Kantian cosmopolitanism and Grotian solidarity. Since many moralists portray their own universal ethics as Kantian, to some extent, it seems reasonable to discuss Kant as an example of this body of scholarship.<sup>1</sup> And noting the differences between Grotius and Kant should indicate that

both the moralist reliance upon Grotius and the equation of Grotius and Kant need reconsideration.

#### A NATURAL PROPENSITY OF MAN

If the mere inclusion of antagonism itself in Kant's concept of asocial sociability made community more difficult to embrace, we would be in the difficult position of rejecting either community or conflict. But as it is, this is not the liberal dilemma. Kant defines asocial sociability as a natural propensity, and in order to avoid concentration upon antagonism, this is where the discussion should begin. By beginning the discussion here, I do not wish to suggest that Kant represents other liberals in his characterization of asocial sociability as a propensity, for some liberals might very well hold that sociability is part of man's nature.<sup>2</sup> What I do wish to suggest, is that some of the concerns apparent in Kant's argument may be representative of those of other liberals.<sup>3</sup>

According to Grotius, man's sociability is part of his nature. As discussed above, this means that man is so constituted that the maintenance of society is a natural law to him, understood through his reason. Kant does not begin in like fashion. His statement about the foundation of man's asocial sociability is best made in the "Idea," where he says, "This propensity [asocial sociability] is obviously rooted in human nature. Man has an inclination to live in

society . . . But he also has a great tendency to live as an individual. . . ."4 To understand what Kant can mean here in distinction to Grotius, we need to see how the concept of propensity operates in his theory.<sup>5</sup> Kant explains propensity quite fully in Religion within the Limits of Reason Alone. Here he says:

By propensity I understand the subjective ground of the possibility of an inclination . . . so far as mankind in general is liable to it. A propensity is distinguished from a predisposition by the fact that although it can indeed be innate, it ought not to be represented merely thus; for it can also be regarded as having been acquired (if it is good), or brought about by man upon himself (if it is evil).<sup>6</sup>

Asocial sociability may be understood to some extent according to this sense of propensity. That is, it may be regarded as engendered by man rather than as strictly innate. Kant's purpose for discussing good and evil as acquired is fairly clear--if the distinction between good and evil maxims were merely the natural determination, then one could not make a strong case for man's imputability. Therefore in the Religion Kant insists that nature itself is amoral and good and evil are propensities of man's nature.<sup>7</sup> Asocial sociability as a propensity is a bit more ambiguous. Kant distinguishes between a natural and moral propensity, suggesting that the question of freedom and thus imputability does not arise with a natural propensity.<sup>8</sup> If this is the case--asocial sociability apparently being a natural rather than a moral propensity--then why does Kant

not attribute asocial sociability fully to nature as opposed to a propensity thereof?

A response to this question might be found in another passage from the Religion. At one point Kant explains that "savage peoples have a propensity for intoxicants" even though they may never have tasted alcohol; "let them but once sample it and there is aroused in them an almost inextinguishable craving for it."<sup>9</sup> Likewise, natural man may not have experience of some of the fruits which prompt feelings of antagonism and competition, such as honor, power, wealth.<sup>10</sup> Once man has tasted of these, however, he has an insatiable craving for them. The fact that this craving is shared by his peers, creates a condition of competition and rivalry. Thus that inclination cannot be natural but arises from that first taste (taken in society). Why that first taste itself cannot be natural (although asocial sociability as inclination is itself heteronomous) can be explained by the connection between asocial sociability and reason, and the nonnatural origin of reason itself.<sup>11</sup> In the same spirit, the desire to live amongst others in peace and concord is not possible without the awareness that others are more than part of the environment as well as that one's self is separable from that environment. Asocial sociability depends upon the consciousness of others as others. Such awareness occasions a cognizance of relations which then can precipitate the

desires of asocial sociability. Thus asocial sociability for Kant requires the use of reason in order to be comprehensible.

In order to make comprehensible the concept of asocial sociability, Kant requires that one go beyond the existence of a being endowed with reason; that being must have performed that first act of reason as well.<sup>12</sup> Kant's argument begins with natural man as an instinctual, nonreflective being; in other words, natural man begins as a nonself-conscious being.<sup>13</sup>

In the "Conjectural Beginning of Human History," Kant philosophically reinterprets the fall of man as man's first use of reason; the horrors accompanying this use, as recounted in the Biblical version Genesis, are elements of man's sudden self-awareness.<sup>14</sup> For example, realizing he is no longer part of nature, man recognizes death. It is not that death did not previously exist, but that it previously held no meaning for a being undifferentiated from his physical surroundings. Erroneously then man attributes the difficulties of life to an act which really introduces life and makes it possible for him to exist as man. Man begins to separate himself from nature as he begins to exercise his reason.

This first act is vital to asocial sociability since that concept is inapplicable to a being undifferentiated from its surroundings. To compete for honors, power or



wealth, or to work for concord, one must exist in society recognized as such.<sup>15</sup> Kant posits man's asocial sociability not as natural, but as following that initial act of reason which signals man's entry into society. His first acts of asocial sociability introduce him to that toward which he is drawn and repelled for the remainder of his species life. As Kant says in the third Critique, the discipline of such inclinations toward and away from society strengthen the reason in its ability to separate itself from nature.<sup>16</sup> The fact that the inclinations are heteronomous means that they must be connected to nature--and so are propensities of nature. The fact that they await reason and so a separation from nature means that they are not totally natural--and so are propensities of nature.

Thus it is that man's enlightenment appears as an ever-present possibility for all mankind.<sup>17</sup> Were asocial sociability to be constitutive of man's nature, two problems would loom before Kant, either of which could affect his theory of freedom. One possibility is that, as natural, asocial sociability would have to be disconnected from reason, which would then exacerbate for Kant the problem of man's dual being--since reason would reign over one world yet man's society would be destined completely to the world of the ephemeral.<sup>18</sup> The other possibility arising, if asocial sociability were to be natural, is that reason would have to be natural as well in order to be connected.

Grotius accepted this, but Kant could not.<sup>19</sup> If reason is natural for Kant, then all reasonable acts must be determined, which eliminates the possibility of freedom.

To say that either possibility affects freedom is not to say that asocial sociability itself must be viewed as freedom. For as already mentioned above, Kant says that a natural propensity is neither a question of freedom nor imputability. If it were, my argument would be quite different.<sup>20</sup> However, recognizing man's asocial sociability to be constituted by heteronomous acts of the will, judging the acts on a species-wide level, may reveal them to be related to man's freedom.<sup>21</sup> In the third Critique, Kant says:

As concerns the discipline of the inclinations . . . there is manifest in respect of this second requirement for culture a purposive striving of nature to a cultivation which makes us receptive of higher purposes than nature itself can supply . . . But yet we cannot mistake the purpose of nature--ever aiming to win us away from the rudeness and violence of those inclinations . . . which belong rather to our animality . . . and to make way for the development of our humanity.<sup>22</sup>

Asocial sociability can be judged to temper reason, to strengthen reason to free itself from the strict determination of nature. Asocial sociability itself is not freedom, but the discipline of inclination which this entails can contribute greatly to the progress of reason in the species.

The possibility of man's freedom is paramount. As man frees himself from nature, he is more likely to heed reason;

only with reason as his guide, as opposed to any other authority, can man have any hope of becoming free. Asocial sociability then assumes a character different from Grotian sociability--a character pertaining to nature but not in itself natural. Freeing the individual from constraints is the topic of the next section.

### A QUESTION OF INTEREST

Unless an authority such as the state operates according to the maxims of reason, the state could pose as a threat to man's use of reason as his guide. The possibility arises that the state may not represent the universal law but could be a codification of particular interest only. The state as particular interest might threaten the freedom of the individual. This raises the question of the interest involved in the particular. A statement of Ernst Cassirer serves as an introduction:

It is the nature of the state that it should not aim at fusing feelings into a unity, but rather at unifying acts of the will and directing them into a common goal. It fulfills this function only if it really succeeds in such a unification, that is, if every demand it makes on the individual is regarded and accepted by him as an expression of the common will . . . the real "social bond" consists in the fact that particular individuals and groups are not called upon to rule over others; for such a rule, in no matter what refined or "civilized" forms it were exercised, could only reduce us to the most abject slavery.<sup>2 3</sup>

The words are Cassirer's; the sentiment, Rousseau's. The meaning behind the sentiment clearly explicates the

normative role of the state to be other than the embodiment of any particular will--that would only result in the enslavement of some--but as the "common will" which is not particular and is therefore universal. The problem, as indicated by Cassirer's statement, is well-formulated by Rousseau. Lewis White-Beck, Cassirer, and others find that Kant sees himself as completing Rousseau's thought.<sup>24</sup> Yet in order to complete Rousseau, at certain points (perhaps where Rousseau's solution is either ambiguous or problematic) Kant seems to correct him. The manner in which Kant completes Rousseau, whether a correction or not, should explicate the problem of interest and society.

Kant says of Rousseau in the "Conjecture": Rousseau "shows quite correctly that there is an inevitable conflict between culture and the human species, considered as a natural species of which every member ought wholly to attain his natural end."<sup>25</sup> Even more difficult, adds Kant, is the problem Rousseau poses of how culture is to develop man as a moral being, in order to "end the conflict between the natural and the moral species."<sup>26</sup> The less problematic dilemma, according to Kant, is that culture can make it difficult for the individual to be happy--Kant resolves the problem by denying that man's end is natural (if it is, then nature certainly has not secured it).<sup>27</sup> The more problematic dilemma is that culture makes it more difficult for man to be moral. How does Kant resolve this problem?

Whether one interprets Kant's response to Rousseau as a completion or a correction may be related to whether one sees Rousseau himself as resolving the problems he raises. Norman Jacobson suggests that it is equivocal whether Rousseau truly offers solace (a resolution) in his formulation of the Legislator and general will or offers instead a critique amounting to the abandonment of solace.<sup>28</sup> I suggest that Kant rejects what I shall call the "relational" perspective of Rousseau, and this stance would seem to be more consistent with the idea that Kant perceives himself to be completing Rousseau's project which Rousseau has not adequately completed--in effect, a correction.

Rousseau claims that while culture and science progress, so do vanity and facade.<sup>29</sup> The latter are not conducive to the moral well-being of the individual. It becomes increasingly difficult for the individual to escape the social facade. The detrimental position in which man finds himself begins first with the necessary separation of man from nature--that first use of reason which for Rousseau as for Kant is both the beginning of man's life and the beginning of his problems. Natural man, according to Rousseau, lives in the immediate present and so is not cognizant of any relationship between himself and others beside what is also immediate and momentary--self-preservation and natural pity.<sup>30</sup> Nature did not give man his sociability or his reason. Rousseau says:

Whatever these origins may be, from the little care taken by nature to bring men together through mutual needs and to facilitate their use of speech, one at least sees how little it prepared their sociability, and how little it contributed to everything men have done to establish social bonds. In fact, it is impossible to imagine why, in that primitive state, a man would sooner have need of another man than a monkey or a wolf of its fellow creature. . . .<sup>31</sup>

In nature man has the reasoning capabilities requisite for that condition--the instinctual properties of pity and self-preservation suffice for his existence outside of society. In advanced society more sophisticated capabilities are necessary for survival and so reason becomes far more developed.<sup>32</sup> Once man reaches any stage of society, it is impossible to return to nature; he has developed the reason requisite for an existence far too complex for that. One may not return to ignorance once having gained a sense of self. Rousseau suggests a relationship between the level and type of consciousness and the societal framework. The solution to his problem then must be solved by a consideration of consciousness--for Rousseau, consciousness is a relational factor influencing the shape of society.

According to Rousseau, society exists as a certain level of consciousness is reached. Man's first act of self-consciousness depends not only upon one's own act of reason, but also upon the other. Reason, and so self-consciousness, creates the recognition of oneself and others in a certain relationship. One's existence in society then depends upon recognition of that other--as a societal being, one's

existence is in relation to the other. As the world becomes present to man as other than immediate, as he carries an existence other than pure response, he is able to recognize his children, to understand his position in relation to others', and then he is societal.<sup>33</sup> This is a relational perspective, and requires more than one's solipsistic recognition of being. So one's existence as father and master depends also upon a son's recognition of this relation. There is an interdependence here which suggests that the parameters of society depend upon the recognition of the members comprising it. Although man must be in such a society once his reason has developed to a certain level, that first step taken with reason appears to be man's fall. Natural inequalities, irrelevant to man as separate nonreflective beings, become very relevant as distinguishing elements in the interdependence of society. As with the father-son relationship dependent upon the recognition of both, men in society create a system based upon recognition of relevant factors in their relationships. As he says in the first and second Discourses, the factors differentiating man, since made relevant by man, are no more than a facade.<sup>34</sup> Thus society based upon such is no more than a society based upon and codifying the interests of certain individuals in that society. This relational view indicates interested society to be almost incapable of representing anything universal.

Rousseau's relational perspective is apparent in his discussion of the social contract. Even man's consent to a particular society cannot in itself legitimate that society.<sup>35</sup> If anyone can make his interest a standard for a particular society, then the recognition of others has been manipulated in order to "legitimate" one group's interest. The result is a social contract representing a particular rather than the general will which Cassirer mentioned above.<sup>36</sup> The result is slavery. But herein also lies one of Rousseau's resolutions, for if the contract does represent a general rather than particular will, then individuals are free from the imposition of another's interest which would normally occur in their relations.

Whether Rousseau's resolution is a plaintive cry or a practical solution, it does present the problem of society reflecting and codifying particular interests. In his own response to the problem, Kant rejects Rousseau's relational perspective and, in so doing, demonstrates that the individual need not be dependent upon the recognition of the other. In Kant's admission of and response to this problem, it becomes even more clear that society cannot be vulnerable to the threat of interest.

#### REJECTION OF THE RELATIONAL PERSPECTIVE

In this section I shall discuss Kant's rejection of Rousseau's relational perspective. In making this



rejection, Kant affirms that the individual need not be dependent upon an other for self-identification. Kant is not denying that features differentiating individuals can be made relevant by society and result in inequalities. In the "Conjecture," Kant recognizes this; he laments the submission of one group's interests to those of another, rather than applauding the peaceful community effected by such surrender.<sup>37</sup> But although granting to Rousseau the fact of inequality, Kant denies the force of relations in defining ourselves in society. It is partly in this denial and reformulation of society that Kant seems to perfect his ideal of society; and it is, in part, in this solution of Rousseau's problem that society appears to be other than a community for Kant. I shall begin to consider Kant's response leading to such a reformulation by a discussion of judgment.

A discussion of judgment is a discussion of man's interpretation of his world and life. For Kant, the individual may be responsible himself for such interpretation. Hannah Arendt, in her discussion of Kantian judgment, places judgment in the context of meaning.<sup>38</sup> In order to clarify the significance of judgment and meaning, consider Arendt's discussion of Kant's ambivalent position on the French Revolution.<sup>39</sup> Many agree that Kant could not decide how to interpret the French Revolution--it was freedom but freedom by means which could not serve as a

moral maxim of action. As a plan of action, Kant condemned the event; as for judging, however, Kant deemed the event fortuitous.<sup>40</sup> Arendt explains the difference as between principles which the actor and spectator follow.<sup>41</sup> The fact that such an action would be morally reprehensible, does not deny that one can give meaning to that event in judgment; in fact, we as spectators must give it meaning. Otherwise there is the danger that meaning will be given to the event by others and imposed upon us. Although we may be spectators in judging, we must not be passive.<sup>42</sup> Kant entreats man to think for himself and says that this is

. . . the maxim of a never passive reason. The tendency to such passivity . . . is called prejudice; and the greatest prejudice of all is to represent nature as not subject to the rules that the understanding places at its basis by means of its own essential law, i.e., is superstition. Deliverance from superstition is called enlightenment. . . .<sup>43</sup>

Man must give an event meaning himself; in accordance with the project of enlightenment, he must not bow under the yoke of imposed thought.<sup>44</sup> But given that, why ought we interpret an action that would be morally wrong, as salutary? An answer to this seems to lie in Kant's desire to interpret this world as an existence of hope and to avoid religious otherworldliness (i.e., the tendency to find meaning only in the hereafter). If we are bound to interpret certain events as negative, then the fact that we cannot actually see a moral act would leave us with dubious

criteria for judging an event to be good. In the "Idea," Kant asks,

For what is the use of lauding and holding up for contemplation the glory and wisdom of creation in the nonrational sphere of nature, if the history of mankind, the very part of this great display of supreme wisdom which contains the purpose of all the rest, is to remain a constant reproach to everything else? Such a spectacle would force us to turn away in revulsion, and, by making us despair of ever finding any completed rational aim behind it, would reduce us to hoping for it only in some other world.<sup>45</sup>

I shall discuss more fully below, when I return to man's asocial sociability, how the meaning of such action or event might be even further explicated in light of Kant's response to Rousseau.<sup>46</sup> But first consider another aspect of man as judge: his impartiality.

According to Kant, man as judge can be an impartial--to use Arendt's term--"spectator." Understanding this is a first step toward understanding Kant's response to the problem posed by Rousseau. If Kant can support the contention that the individual can and ought to be impartial, this would begin to chip away at Rousseau's point that all relationships involve some type of interest. Kant would not be denying that interest exists; he would be denying that either our own or another's interest need define the meaning of our relationship with any other. This would allow an opening for defusing Rousseau's argument about the dependence of man upon relations with and recognition of the other. Kant's discussion of the sublime

might clarify this point. The entirety of the third Critique focusses upon man giving meaning to what might otherwise only be understood mechanically or understood to be nonrepresentable. Thus Kant indicates that as far as beauty, the sublime and nature are concerned, meaning (albeit arising in the subject) can be disinterested. One section of the Judgment is entitled "Beautiful art is an art insofar as it seems like nature."<sup>47</sup> In this section, he says, "Hence the purposiveness in the product of beautiful art, although it is designed, must not seem to be designed, i.e., beautiful art must look like nature, although we are conscious of it as art."<sup>48</sup> In other words, the artist must not impose upon the spectator any meaning; the spectator as judge must be allowed to arrive at a meaning himself. Thus man can give meaning to events--that meaning is not imposed by any external Being; there is no meaning that the individual must discover.

However, the point that there is no meaning imposed upon the spectator by the object does not directly address the question of the spectator's impartiality. In order for judgment to be general or, ultimately, disinterested and so universal, the spectator must be capable of refraining from an imposition of his own interest when giving an object meaning. This challenges Rousseau: If I am able to judge impartially then it is possible that I can refrain from imposing my interest upon the other in our relations.

Kant does not only affirm the possibility of impartiality and, finally, disinterested interest; he insists upon the necessity of it. One element of meaning is that it must be communicable.<sup>49</sup> For example, beauty exists only in society; alone in the wilderness, man would not adorn his hut with flowers, etc.<sup>50</sup> This admission grants to Rousseau that beauty (etc.) can be relational. As a means of communication, it is likewise a means of differentiation and a foundation for inequality. Yet Kant goes on to negate the power extant in such relations by insisting upon the need for disinterest if one is to communicate his judgment to be meaningful. That is, Kant does not deny that one can impose meaning upon another--he calls this superstition. But if our judgment is to be understood as meaningful, it must not be interested--and this is where Kant begins to refute the implications of Rousseau's relational perspective. If I judge X to be beautiful, the less my judgment depends upon my particular situation and interests, the more readily will this conclusion be understood and acquiesced by others. In order to make one's judgment more than merely particular, he must abstract from his own situation, he must put himself "in thought in the place of everyone else."<sup>51</sup> What Kant is suggesting here is what Max Weber and Peter Winch would both deny--that the individual can stand in every other's stance and gain a more general perspective than he would have ordinarily.<sup>52</sup> Thus neither

my own nor another's interest need impinge upon my interpretation of the world and life in the manner feared by Rousseau.

Thus we need not judge the progress of culture as the regress of morality. For impartiality can be more than merely general, taking into account the stances of many others. It can be an absolutely universal judgment. Such abstraction from one's situation provides hope that one can act from the motivation of the moral law rather than from particular considerations and concerns. In such a case of judgment, the requirement of communicability to society fades because the universal is absolutely comprehensible. Kant says,

He who by himself (and without any design of communicating his observations to others) regards the beautiful figure of a wild flower, a bird, an insect, etc., with admiration and love . . . he takes an immediate and also an intellectual interest in the beauty of nature.<sup>53</sup>

And it is such a one "whose mental disposition either has already been cultivated in the direction of the good or is eminently susceptible of such cultivation."<sup>54</sup> Such appreciation of nature for itself is an abstraction from one's interests and relations; this judgment is perfectly communicable yet depends upon no stance for its meaningfulness. This is not to say that this is an act of morality itself, for it is judgment; but its universality is like that required for a moral act. The point is that the progress of culture, which culminates in relations of

inequality agreed upon by men, need not threaten the possibility of moral action. In our judgment we can find universal meaning; in our action we ought also to be able to adhere to a universal law.

That progress need not engender only vanity and inequality, is also Kant's point in his discussion of man's asocial sociability. In his discussion of asocial sociability, Kant actually denies that the concept has meaning at the level of particular individuals. Judging, on this level, forces man into the position of recognizing the factors differentiating between him and the other; on this level, there appears to be no escaping Rousseau's problem except perhaps by a means comparable to Rousseau's Legislator. Kant insists that the meaning of asocial sociability (as also the French Revolution) be given at the species level. At the species level, judgment of asocial sociability can be that it furthers culture and encourages the creation of legality with the state. Judging man in his asocial sociability as a species immediately undermines the power which person A could have upon person B in their mutual relations and recognition. The very vantage point that Kant foists upon us in judgment, compels us to begin immediately to separate ourselves from the interest of another and to take a step toward giving meaning ourselves. The species view will not trap us into recognizing or legitimating another's interest as could a particular

viewpoint. Kant ultimately replaces Rousseau's relational perspective with one emphasizing the possibility of abstraction from one's relational situation. Kant offers a vision of man's relations, which is not conducive to community, but to the universal.

#### KANTIAN SOCIETY

A vision of man's relations conducive to the universal is offered in Kant's portrayal of the state. The question is how Kant avoids portraying the state as a community and, therefore, how a universalist ethic operates differently than Grotius's theory. In the third Critique, Kant says,

. . . [B]ut still this splendid misery is bound up with the development of the natural capacities of the human race, and the purpose of nature itself, although not our purpose, is thus attained. The formal condition under which nature can alone attain this its final design is that arrangement of men's relations to one another by which lawful authority in a whole, which we call a "civil community," is opposed to the abuse of their conflicting freedoms; only in this can the greatest development of natural capacities take place. For this there would also be requisite . . . a "cosmopolitan" whole, i.e., a system of all states that are in danger of acting injuriously upon one another.<sup>55</sup>

This may not seem to support obligations of men external to the state, since it is apparent from this statement that Kant supports the state as a means to man's natural and rational development.<sup>56</sup> However, when viewed in the context of his historical and political thought, it is clear that Kant does not support the state's existence as a community.



Kant speaks of cosmopolitan society as the Idea of a federation of states united for perpetual peace--only then may interstate antagonism subside enough to permit more complete assurance of individual negative freedom which in turn helps secure the possibility of positive freedom (and so morality). Kant says that perpetual peace is not a probability.<sup>57</sup> But because of its existence as an Idea, a duty exists not to act in a manner which jeopardizes perpetual peace; a duty exists not to act in a manner which threatens cosmopolitan right. Thus although Kant strongly supports the existence of the state, the state may not justifiably look inward to enhance the existence of its citizens without a consideration of external rights. Kant's portrayal is universalist and does not support the state as a community.

## NOTES

<sup>1</sup> For Kant's use of cosmopolitanism, see "Idea for a Universal History with a Cosmopolitan Purpose," in Kant's Political Writings, ed. Hans Reiss, trans. H. B. Nisbet (Cambridge: Cambridge University Press, 1970) 41. Also see "Perpetual Peace, A Philosophical Sketch" in Reiss, 93-130.

<sup>2</sup> In fact although he is liberal, Grotius holds that man's nature is sociable and it is not in saying this that distinguishes his thought from Kant's or allows Grotius to maintain the conciliation which he supports.

<sup>3</sup> Even though some liberals may not conceptualize their theories in terms of asocial sociability, they share the same concerns that Kant demonstrates, in particular the concern that men be treated equally and so that no body be given the authority to rule in its own interest. Of course, although the liberal tradition as a whole may be characterized as sharing these basic concerns, it is actually moralists such as Linklater and Beitz who frame these concerns in the form of a prescriptive universal ethic.

<sup>4</sup> Kant, "Idea," 44.

<sup>5</sup> Kant, Religion within the Limits of Reason Alone, trans. T. M. Greene (New York: Harper & Row, 1960) 24.

<sup>6</sup> Kant, Religion, 24.

<sup>7</sup> Kant, Religion, 26-27.

<sup>8</sup> Kant, Religion, 27-28.

<sup>10</sup> In the "Idea" Kant identifies honor, power and wealth as desires which cause man to seek "status among his fellows"; this is in Kant's discussion of asocial sociability, 44.

<sup>11</sup> Kant, "Conjecture," 55-59.

<sup>12</sup> Kant, "Conjecture," 55-59.

<sup>13</sup> Kant, "Conjecture," 55.

<sup>14</sup> Kant, "Conjecture," 56, 58.

<sup>15</sup> This is all comparable to Rousseau's ideas on the matter--that it is in society, recognized as such, that inequality based upon competition, etc. arises.

<sup>16</sup> Kant, Critique of Judgment, trans. J. H. Bernard (New York: Hafner Press, 1951) 283.

<sup>17</sup> Kant, "An Answer to the Question: 'What is Enlightenment?'" in Kant's Political Writings, trans. H. B. Nisbet, ed. Hans Reiss (Cambridge: Cambridge University Press, 1970) 54-60.

<sup>18</sup> This is similar to the problem which Plato faces, where justice as manmade then leaves nature as free but yet with no virtue at all.

<sup>19</sup> This does not mean that Grotius's acceptance of natural sociability in itself distinguishes it from Kant's conception, but that this is part of a greater purpose which is distinct in each.

<sup>20</sup> If Kant were to say that natural propensity was a question of freedom, then moral and natural propensity would be equivalent and it would be even clearer that Kant's asocial sociability as a propensity was separate from Grotius's natural sociability. This is not the case for Kant--natural must be amoral.

<sup>21</sup> Kant, "Idea," 45-46.

<sup>22</sup> Kant, Judgment, 283.

<sup>23</sup> Ernst Cassirer, Rousseau, Kant, Goethe: Two Essays (Hamden, Connecticut: Archon Books, 1961) 30.

<sup>24</sup> Cassirer; also see Lewis White Beck, "What have we Learned from Kant?" in Self and Nature in Kant's Philosophy, ed. Allen W. Wood (Ithaca: Cornell University Press, 1984).

<sup>25</sup> Kant, "Conjecture," 60-61.

<sup>26</sup> Kant, "Conjecture," 61.

<sup>27</sup> Kant, "Idea," 43-44.

<sup>28</sup> Norman Jacobson, Pride and Solace: The Functions and Limits of Political Theory (Berkeley: University of California Press, 1978).

<sup>29</sup> Jean Jacques Rousseau, The First and Second Discourses, ed. Roger D. Masters, trans. Judith R. Masters (New York: St. Martin's Press, 1964) 33-64.

<sup>30</sup> Rousseau, 128-129, 132-133.

<sup>31</sup> Rousseau, 126.

<sup>32</sup> Rousseau, 101-181.

<sup>33</sup> Rousseau, 137. He says, ". . . [P]erhaps never even recognizing anyone individually, savage man, subject to few passions and self-sufficient, had only the sentiments and intelligence suited to that state . . . he did not even recognize his children. Art perished with the inventor . . . the generations multiplied uselessly; and everyone always starting from the same point, centuries passed in all the crudeness of the first ages; the species was already old, and man remained ever a child."

<sup>34</sup> Rousseau, 56-59, 138, 154-158.

<sup>35</sup> Rousseau, 160; Rousseau, The Social Contract, trans. Maurice Cranston (New York: Penguin Books, 1968) 59-62. See also Judith Shklar, Men and Citizens: A Study of Rousseau's Social Theory (Cambridge: Cambridge University Press, 1969).

<sup>36</sup> Rousseau, Contract, 72-74, 151-154.

<sup>37</sup> Kant, "Conjecture," 63-65.

<sup>38</sup> Hannah Arendt, The Life of the Mind (New York: Harcourt Brace Jovanovich, 1978) 259.

<sup>39</sup> Arendt, 258-260.

<sup>40</sup> Kant, "On the Common Saying: This May be True in Theory, but it does not Apply in Practice," in Kant's Political Writings, trans. H. B. Nisbet, ed. Hans Reiss (Cambridge: Cambridge University Press, 1970) 81-83.

<sup>41</sup> Arendt, 260.

<sup>42</sup> Kant, Judgment, 136-137. Of course there is another possibility in not judging an event which is that the event will not be considered an "event" at all. But according to Arendt, for Kant this is why spectators are necessary. Arendt, 262.

<sup>43</sup> Kant, Judgment, 136-137.

<sup>44</sup> Kant, "Enlightenment," 54-60.

<sup>45</sup> Kant, "Idea," 53.

<sup>46</sup> It is not that asocial sociability is morally reprehensible--it is amoral. However, it is not either morally commendable and yet Kant judges it to be good. See "Idea," 41-53. The discussion on this is forthcoming.

<sup>47</sup> Kant, Judgment, 149.

<sup>48</sup> Kant, Judgment, 149.

<sup>49</sup> Arendt, 267.

<sup>50</sup> Kant, Judgment, 139.

<sup>51</sup> Kant, Judgment, 136.

<sup>52</sup> Peter Winch, The Idea of a Social Science (London: Routledge & Kegan Paul, rpt. 1984); Max Weber, The Methodology of the Social Sciences, trans. and ed. Edward A. Shils and Henry A. Finch (New York: The Free Press, 1949).

<sup>53</sup> Kant, Judgment, 141.

<sup>54</sup> Kant, Judgment, 143.

<sup>55</sup> Kant, Judgment, 282.

<sup>56</sup> "Rational" because nature develops that capacity constitutive of man. See the "Idea."

<sup>57</sup> Kant, "Perpetual Peace," 93-130.

## CHAPTER V

### CONCLUSION: GROTIUS AND CONCILIATION

If Grotius's thought comprises a theory of conciliation rather than of universalism, then one might ask whether Grotius still offers something to contemporary international relations scholars. Having seen how he accommodates individualism and community while making other changes in his thought; having seen how he retains an Aristotelian concern for community while emphasizing the existence of universal natural rights; having seen how his theory differs in certain important respects from the universalist ethic of Kant--it seems that one should conclude that Grotius does not offer contemporaries a foundation for a universalist ethic. This, however, does not mean that Grotius's thought is not relevant to contemporary concerns.

One suggestion that might be made is that Grotius's attention to community resurrects a facet of man which is not accounted for adequately in the universalist ethics of contemporary moralists. To concentrate upon the individual as the primary entity of international relations may place too much responsibility upon every individual (at least so it would seem according to Grotius's thought), as well as



not affording much of a context for the individual to understand himself in relation to others and society. Grotius might offer a more complex notion of man's relations to the world than a universalist ethic is capable of admitting. Of course to recognize this, one must also recognize that Kant's formulation of a response to Rousseau's concerns may address some of the very concerns thus far preventing any accommodation of the notion of community.

Once again, Grotius poses contemporaries with a challenge. In order to understand the extent of his applicability to contemporary international relations theory, one must decide whether a conciliation adequately addresses modern concerns, whether alterations could be effected, if necessary, in order to create a conciliation amenable to modern concerns. The challenge is to base international relations theory upon a universalist ethic other than Grotius, or to attempt a Grotian conciliation.

## BIBLIOGRAPHY

- Aquinas, Thomas. Aquinas: Selected Political Writings. Edited by A. P. D'Entreves. Translated by J. G. Dawson. Tartowa, New Jersey: Barnes & Noble Books, 1981.
- Arendt, Hannah. The Life of the Mind. New York: Harcourt Bruce Jovanovich, 1978.
- Aristotle. Nicomachean Ethics. Translated by Terence Irwin. Hackett Publishing Company, 1985.
- Aristotle. The Politics. Translated by T. A. Sinclair. New York: Penguin Books, 1980.
- Beck, Lewis White. "What have we Learned from Kant?" in Self and Nature in Kant's Philosophy. Edited by Allen W. Wood. Ithaca: Cornell University Press, 1984.
- Beitz, Charles. "Bounded Morality: Justice and the State in World Politics." International Organization, XXXIII, (Summer 1979): 405-429.
- Bull, Hedley. "The Grotian Conception of International Society" in Diplomatic Investigations: Essays in the Theory of International Politics. Edited by Herbert Butterfield and Martin Wight. Cambridge: Harvard University Press, 1961.
- Cassirer, Ernst. Kant's Life and Thought. Translated by James Haden. New Haven: Yale University Press, 1981.
- \_\_\_\_\_. Rousseau, Kant, Goethe: Two Essays. Hamden, Connecticut: Archon books, 1961.
- Chroust, A. H. "Hugo Grotius and the Scholastic Natural Law Tradition." The New Scholasticism, XVII (April 1943): 101-133.
- Cooper, John M. "Aristotle on Friendship," in Essays on Aristotle's Ethics. Edited by Amelie Oksenberg Rorty. Berkeley: University of California Press, 1980.
- Copleston, Frederick. A History of Philosophy. Vol. III. Westminster, Maryland: The Newman Press, 1957.

- Edwards, Charles S. Hugo Grotius, The Miracle of Holland: A Study of Political and Legal Thought. Chicago: Nelson-Hall, 1981.
- \_\_\_\_\_. "The Law of Nature in the Thought of Hugo Grotius." Journal of Politics, XXXII (1970): 784-807.
- Fackenheim, Emil L. "Kant and Radical Evil." University of Toronto Quarterly, XXIII (July 1954): 339-353.
- \_\_\_\_\_. "Kant's Concept of History." Kant-Studien, XLVIII (1956-57): 381-398.
- Galston, William A. Kant and the Problem of History. Chicago: The University of Chicago Press, 1975.
- Grotius, Hugo. De Jure Praedae Commentarius. Translated by Gwladys L. Williams and Walter H. Zeydel. Edited by James Brown Scott. Oxford: Clarendon Press, 1950.
- \_\_\_\_\_. The Jurisprudence of Holland. 2 Volumes. Translated by R. W. Lee. Oxford: Oxford University Press.
- \_\_\_\_\_. Mare Liberum. Translated by Ralph von Deman Magoffin. Edited by James Brown Scott. New York: Oxford University Press, 1916.
- \_\_\_\_\_. Prolegomena to the Law of War and Peace. Translated by Frank W. Kelsey. Indianapolis: The Bobbs-Merrill Company, Inc., 1957.
- \_\_\_\_\_. The Rights of War and Peace. Translated by A. C. Campbell. New York: M. Walter Dunne, 1901.
- Haakonssen, Knud. "Hugo Grotius and the History of Political Thought." Political Theory XIII (May 1985): 239-265.
- Ito, Fujio. "Defense of Hugo Grotius for his Mare Liberum." The Japanese Journal of International Law XX (1976): 1-16.
- \_\_\_\_\_. "The Thought of Hugo Grotius in the Mare Liberum." The Japanese Journal of International Law XVIII (1974): 1-14.
- Jacobson, Norman. Pride and Solace: The Functions and Limits of Political Theory. Berkeley: University of California Press, 1978.

- Jaspers, Karl. Kant. Translated by Ralph Mannheim. Edited by Hannah Arendt. New York: Harcourt, Brace & World, Inc., 1962.
- Kant, Immanuel. "An Answer to the Question: 'What is Enlightenment?'" in Kant's Political Writings. Translated by H. B. Nisbet. Edited by Hans Reiss. Cambridge: Cambridge University Press, 1970.
- \_\_\_\_\_. "The Conflict of the Faculties," in Kant's Political Writings.
- \_\_\_\_\_. "Conjectural Beginning of Human History," in On History. Translated by Emil L. Fackenheim. Edited by Lewis White Beck. Indianapolis: Bobbs-Merrill, 1963.
- \_\_\_\_\_. Critique of Judgment. Translated by J. H. Bernard. New York: Hafner Press, 1951.
- \_\_\_\_\_. "The End of All Things," in On History.
- \_\_\_\_\_. "Idea for a Universal History with a Cosmopolitan Purpose," in Kant's Political Writings.
- \_\_\_\_\_. "On the Common Saying: 'This May be True in Theory, but it does not Apply in Practice,'" in Kant's Political Writings.
- \_\_\_\_\_. Religion within the Limits of Reason Alone. Translated by T. M. Greene. New York: Harper & Row, 1960.
- Kerferd, G. B. "What Does the Wise Man Know?" in The Stoics. Edited by John M. Rist. Berkeley: University of California Press, 1978.
- Lapidge, Michael. "Stoic Cosmology," in The Stoics. Edited by John M. Rist. Berkeley: University of California Press, 1978.
- Lauterpacht, Hersch. "The Grotian Tradition in International Law," in International Law: A Contemporary Perspective. Edited by Richard Falk, Friedrich Kratochwil, Saul H. Mendlovitz. Boulder: Westview Press, 1985.
- Linklater, Andrew. Men and Citizens in the Theory of International Relations. New York: St. Martin's Press, 1982.
- Luther, Martin and Desiderius Erasmus. Erasmus-Luther Discourse on Free Will. Translated by Ernst F. Winter. New York: Frederick Unger Publishing Co., Inc., 1982.

- Murphy, Cornelius F., Jr. "The Grotian Vision of World Order." The American Journal of International Law, LXXVI (1982): 477-498.
- Paton, H. J. The Categorical Imperative: A Study in Kant's Moral Philosophy. New York: Harper & Row, 1947.
- Pembroke, S. G. "Oikeiosis," in Problems in Stoicism. Edited by A. A. Long. London: The Athlone Press, 1971.
- Popkin, Richard H. The History of Scepticism: From Erasmus to Spinoza. Berkeley: University of California Press, 1979.
- Riley, Patrick. "The General Will Before Rousseau." Political Theory VI (November 1978): 485-513.
- \_\_\_\_\_. Will and Political Legitimacy: A Critical Exposition of Social Theory in Hobbes, Locke, Rousseau, Kant, and Hegel. Cambridge: Harvard University Press, 1982.
- Rist, John M. "The Stoic Concept of Detachment," in The Stoics. Edited by John M. Rist. Berkeley: University of California Press, 1978.
- Rousseau, Jean Jacques. The First and Second Discourses. Edited by Roger Masters. Translated by Judith R. Masters, New York: St. Martin's Press, 1964.
- \_\_\_\_\_. The Social Contract. Translated by Maurice Cranston. New York: Penguin Books, 1968.
- Sabine, George. A History of Political Theory. 4th ed. Hinsdale, Illinois: Dryden Press, 1973.
- Sandel, Michael J. Liberalism and the Limits of Justice. Cambridge: Cambridge University Press, 1982.
- Seidler, Victor J. Kant, Respect and Injustice: The Limits of Liberal Moral Theory. London: Routledge & Kegan Paul, 1986.
- Shklar, Judith. Men and Citizens: A Study of Rousseau's Social Theory. Cambridge: Cambridge University Press, 1969.
- Steinberg, Jules. Locke, Rousseau, and the Idea of Consent: An Inquiry into the Liberal-Democratic Theory of Political Obligation. Westport, Connecticut: Greenwood Press, 1978.

- Strauss, Leo. Natural Right and History. Chicago: The University of Chicago Press, 1953.
- Tuck, Richard. Natural Rights Theories: Their Origin and Development. Cambridge: Cambridge University Press, 1979.
- Urmson, J. O. "Aristotle's Doctrine of the Mean," in Essays on Aristotle's Ethics. Edited by Amelie Oksenberg Rorty. Berkeley: University of California Press, 1980.
- Verbeke, Gerald. The Presence of Stoicism in Medieval Thought. Washington D.C.: The Catholic University of America Press, 1982.
- Watson, Gerard. "The Natural Law and Stoicism," in Problems in Stoicism. Edited by A. A. Long. London: The Athlone Press, 1971.
- Wilcox, Donald. In Search of God and Self: Renaissance and Reformation Thought. Boston: Houghton Mifflin Company, 1975.
- Wilkes, Kathleen V. "The Good Man and the Good for Man in Aristotle's Ethics," in Essays on Aristotle's Ethics. Edited by Amelie Oksenberg Rorty. Berkeley: University of California Press, 1980.
- Williams, Bernard. "Justice as a Virtue," in Essays on Aristotle's Ethics. Edited by Amelie Oksenberg Rorty, Berkeley: University of California Press, 1980.
- Wolin, Sheldon S. Politics and Vision: Continuity and Innovation in Western Political Thought. Boston: Little, Brown and Company, 1960.